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November 30, 2005

VIA ECFS

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: MB Docket No. 05-317  
KABC-TV, Los Angeles, California, Facility ID No. 282  
TELEVISION STATION SECTION 339(a)(2)(D)(vii) WAIVER REQUEST

Dear Ms. Dortch:

ABC Holding Company, Inc. ("ABC Holding"), the licensee of KABC-TV and KABC-DT, Los Angeles, California, Facility ID No. 282, by its attorneys, hereby requests a six-month waiver ("Testing Waiver") of the April 30, 2006 digital signal testing implementation date ("April Deadline") to temporarily preclude satellite subscribers from conducting a digital signal strength test of KABC-DT for purposes of obtaining a distant network signal. The Testing Waiver is sought pursuant to Section 339(a)(2)(D) of the Communications Act ("Section 339"), as amended by the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"), and the November 17, 2005 public notice ("Waiver PN") released by the Federal Communications Commission ("Commission").<sup>1</sup> As further set forth herein, KABC-DT's digital signal coverage presently is limited due to the necessity of using a side mounted antenna below its top-mounted analog antenna, and its plans to use its current analog antenna as its digital antenna post-transition. For these and other reasons set forth herein, ABC Holding submits that grant of a Testing Waiver is consistent with Section 339 and is in the public interest.

KABC-DT Is Not Subject to the April Deadline. As an initial matter, ABC Holding believes that KABC-DT is not subject to the April Deadline. The April Deadline applies to network stations in the top 100 television markets that received their current digital channel as

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<sup>1</sup> See 47 U.S.C. § 339(a)(2)(D) as amended by Section 204 of SHVERA; TV Station Requests for Waiver of Digital Testing Pursuant to the Satellite Home Viewer Extension and Reauthorization Act of 2004 to be Filed by November 30, 2005 or February 15, 2007, DA 05-2979, *Public Notice* (rel. Nov. 17, 2005) ("Waiver PN").

November 30, 2005

Page 2 of 4

their post-transition channel or were found by the FCC to have lost interference protection.<sup>2</sup> KABC-DT was awarded a tentative channel designation on its present analog channel and has not lost interference protection at this time. However, KABC-DT has requested a waiver of the Commission's replication deadline of July 1, 2005, and this request ("Replication Waiver Request") remains pending.<sup>3</sup> If the Commission rejects the KABC-DT Replication Waiver Request, KABC-DT may lose interference protection. Given this possibility, KABC-DT is filing the instant Testing Waiver request out of an abundance of caution.

KABC-DT Uses a Side-Mounted Antenna. To the extent that the Commission determines that KABC-DT is subject to the April Deadline, ABC Holding requests a Testing Waiver pursuant to Section 339. Section 339 provides that subject stations may obtain a temporary waiver of satellite subscriber digital signal testing if "the station's digital signal coverage is limited due to the unremediable presence of one or more" statutory criteria. One criterion considered is whether "the station experiences a substantial decrease in its digital signal coverage area due to the necessity of using a side-mounted antenna."<sup>4</sup> ABC Holding requests a Testing Waiver for KABC-DT on the basis of this criterion.

KABC-DT currently is unable to serve 231,001 people predicted to be served by KABC-DT's initial DTV allotment because of the current side-mounted position of its antenna.<sup>5</sup> The top tower mast positions on the ABC Holding tower are occupied by the KABC-TV antenna.<sup>6</sup> As a result, ABC Holding had to side-mount KABC-DT's antenna on the tower's lower and wider base. The large size of the tower at this level causes signal blockage and reduces the number of viewers that KABC-DT can reach.<sup>7</sup> ABC Holding cannot remedy this signal blockage by moving its antenna because, as indicated above, the higher position is occupied by the NTSC antenna.<sup>8</sup> ABC Holding also cannot remedy this problem now because it will use its current

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<sup>2</sup> See 47 U.S.C. § 339(a)(2)(D)(vii).

<sup>3</sup> See Letter to Ms. Marlene H. Dortch, Secretary, FCC, from Tom W. Davidson, Esq., MB Docket No. 03-15 (filed July 1, 2005) ("Replication Waiver Request").

<sup>4</sup> 339(a)(2)(D)(viii)(V)

<sup>5</sup> KABC's current replication percentage is 98.43%. See Replication Waiver Request, at 2.

<sup>6</sup> KABC-TV currently has both a visual and aural antenna.

<sup>7</sup> The tower does not similarly impede the signal of KABC-TV because the KABC-TV antenna is attached to a narrower and higher portion of the tower, above the KABC-DT side-mounted antenna.

<sup>8</sup> ABC Holding also examined possible ways to increase KABC-DT's coverage, aside from a switch of antenna positions; however, these studies found no viable solution.

November 30, 2005

Page 3 of 4

NTSC antenna as its DTV antenna post-transition. Specifically, because ABC Holding will use its current NTSC channel as its post-transition DTV channel, it will use the current KABC-TV antenna as its antenna for KABC-DT. However, KABC-DT must wait until KABC-TV ceases operation before it can assume use of the KABC-TV antenna. In sum, KABC-DT's signal coverage is temporarily limited due to its side-mounted antenna and its plans to use its NTSC antenna for its post-transition operations, and ABC Holding requests a Testing Waiver on this basis.

Grant of a Testing Waiver Also is in the Public Interest. Grant of a Testing Waiver also is in the public interest because it will have only a short-term, temporary effect on satellite subscribers within KABC-DT's non-replicated area. KABC-DT will be able to reach these subscribers at the end of the analog transition through the eventual use of the current KABC-TV antenna. The antenna will remain top-mounted on the tower, and thus will not face the problems currently affecting the side-mounted KABC-DT antenna. From this position, the KABC-TV antenna has proven quite capable of serving the station's analog viewers and will continue to capably serve these viewers as the antenna for KABC-DT. Thus, satellite subscribers will be able to receive KABC-DT at the end of the digital transition. Because satellite subscribers soon will receive KABC-DT, the Commission should delay testing that could permit subscribers to receive distant digital signals indefinitely, well-beyond the short-term period during which they could not receive KABC-DT over-the-air.<sup>9</sup>

Conclusion. For all of the reasons set forth herein, ABC Holding respectfully requests that the Commission grant a Testing Waiver for KABC-DT.

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<sup>9</sup> At a minimum, the Commission should ensure that the term of any permissible distant signal delivery is limited so that satellite subscribers no longer may receive distant network signals once they are capable of receiving local digital signals over-the-air.

November 30, 2005  
Page 4 of 4

Please direct any questions or inquiries regarding this matter to the undersigned.

Respectfully submitted,

/s/

Tom W. Davidson, Esq.

cc: Nazifa Sawez, Esq.